IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 179 OF 2004

SMT.JAYA ALIAS SITADEVI RAGHURAJ DESHPRABHU & 8 OR ....Petitioners

Versus

SHRI VASSUDEO K.TALWANEKAR(SIN.DEC.)THROUGH L.RS. ....Respondents

Shri M. S. Sonak, Advocate for the petitioners.

Shri S. D. Lotlikar, Sr. Advocate with Ms. Shreya S. Naik, Advocate for respondents No.1(a), 1(e), 1(g), 1(i), 3, 4, 5, 6, 8 and 13.

Coram:- R. M. LODHA, J.

Date:- 19th August, 2005

P.C.

Heard Mr. Sonak, learned Counsel for the petitioners and perused the impugned order passed by the IInd Additional District Judge, North Goa, Panaji.

It is true that the order of the appeal Court is that of reversal and thereby the learned Appellate Judge interfered with the discretion exercised by the trial Court, but on facts, interference by the appeal Court cannot be faulted. On consideration of the material on record, the appeal Court found that the present respondents (defendants) were in possession of the suit property. Obviously in view thereof, the present petitioners were not entitled to grant of any temporary injunction.

No case for interference is made out. The writ petition is dismissed in limine.

Upon dismissal of the writ petition, needless to say that the interim order cannot survive.

R. M. LODHA, J.